

BEFORE THE

SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

214494

STB Docket No. MC-F-21008

EAST WEST RESORT TRANSPORTATION, LLC,
AND TMS, LLC, d/b/a
COLORADO MOUNTAIN EXPRESS
-PETITION FOR DECLARATORY ORDER-
MOTOR CARRIER TRANSPORTATION OF PASSENGERS IN COLORADO

COLORADO PUBLIC UTILITIES COMMISSION'S
THIRD UNOPPOSED MOTION TO MODIFY PROCEDURAL SCHEDULE

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State of Colorado

Dated: August 5, 2005

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The Public Utilities Commission of the State of Colorado ("CPUC"), by and through the Colorado Attorney General, hereby submits this third unopposed motion to modify the procedural schedule with respect to the petition for declaratory order filed by East West Resort Transportation, LLC and TMS, LLC d/b/a Colorado Mountain Express ("CME"). CPUC makes this motion pursuant to 49 C.F.R. § 1104.7(b). In support, CPUC states as follows.

1. By its Decision dated June 23, 2005, the Board granted CPUC's second unopposed motion for extension of time. In the June 23, 2005 decision, the Board established August 17, 2005 as the due date for CPUC's reply to CME's petition for declaratory order. In that same decision, the Board established September 1, 2005 as the due date for CME's rebuttal statement.

2. CPUC now seeks an additional two weeks within which to complete and file its reply to CME's petition for declaratory order. CPUC requests this two-week extension because certain discovery matters remain unresolved. These discovery matters no longer relate to the depositions of Mr. Christopher Jarnot and Ms. Susan Rubin-Stewart of Vail Resorts Management Company, which depositions were taken in mid-July. CPUC and CME continue to be able to work cooperatively toward final resolution of the discovery phase of this matter. However, a combination of factors, including deadlines in other matters (most significantly, CPUC counsel's involvement in an appellee brief filed August 4, 2005 with the United States Court of Appeals for the Tenth Circuit in Docket No. 05-1036) and vacation schedules, have prevented their full resolution as of this date.

3. Thus, CPUC seeks a decision of the Board that establishes a revised procedural schedule that affords additional time within which it may file its reply statement.

4. Counsel for CPUC has conferred with Mr. Tom Burke and Mr. Fritz Kahn, counsel for CME, and is authorized to state that CME does not oppose this motion.

5. Following conferral with counsel for CME, CPUC is authorized to propose the following revised filing deadlines in this matter:

August 31, 2005 – due date for CPUC's reply statement to CME's petition for
declaratory order

September 16, 2005 – due date for CME's rebuttal statement.

WHEREFORE, CPUC respectfully requests that the Board grant this unopposed motion and modify the procedural schedule such that August 31, 2005 is the due date for CPUC's reply

to CME's petition for declaratory order and September 16, 2005 is the due date for CME's rebuttal statement.

Dated this 5th day of August, 2005.

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within COLORADO PUBLIC UTILITIES COMMISSION'S THIRD UNOPPOSED MOTION TO MODIFY PROCEDURAL SCHEDULE upon all parties herein by electronic mail and depositing copies of same in the United States mail, first class postage prepaid, or as otherwise indicated, at Denver, Colorado, this 5th day of August, 2005, addressed as follows:

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